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Counsel for Defendant

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

N.S. by and through
His parents, J.S. and R.S.,

Plaintiffs,

vs.

Anchorage School District,

Defendant.

Case No. 3:05-cv-0177 (TMB)

NOTICE OF SUPPLEMENTAL AUTHORITY

The Anchorage School District (ASD), defendant in the above matter, by and through counsel, Jermain Dunnagan & Owens, P.C., hereby submits notice to the court, pursuant to D. Ak. LR 7.1(h)(1)[B], of supplemental authority concerning the pending Motion for Attorney's Fees. (Docket 40).

1. The IDEA prohibits an award of attorney's fees and costs after a written settlement offer. 20 U.S.C. § 1415(i)(3)(D)(i). However, the IDEA does not require that the written offer of settlement be an offer of judgment pursuant to Rule 68 FRCP. 20 U.S.C. § 1415(i)(3)(D)(i)(I). This argument is made by plaintiff at pages 2-3 of his Reply

Memorandum (Docket 46) in response to ASD's argument about the written offer of settlement at pages 3-5 of its Opposition Memorandum. (Docket 41).

2. Plaintiff disputes at page 3 of his Reply Memorandum that the written offer of \$29,000.00 submitted December 30 to settle three separate matters resulted in an offer of \$14,700.00 in this case—a more favorable amount than the recovery eventually awarded by the court of \$10,881.67. This is discussed at pages 3-4 & n. 7 of ASD's Opposition Memorandum. Attached hereto as Exhibit 4 are the offers and acceptance of the settlements in the other two matters that settled for a total of \$14,300.00. ASD did not expect that these settlements or amounts would be contested.

DATED at Anchorage, Alaska this 20th day of September 2006.

JERMAIN, DUNNAGAN & OWENS, P.C.

By: /s/ Bradley D. Owens
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CERTIFICATE OF SERVICE

This is to certify that on this 11th day of September, 2006, a true and correct copy of the foregoing was electronically mailed to:

Megan Allison
Disability Law Center of Alaska
3330 Arctic Boulevard, Suite 103
Anchorage, AK 99503

/s/ Bradley D. Owens

3227.1141 - 130954